

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16048 of the Brown Memorial AME Church, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 334 to establish a temporary community service center on the first floor in an R-4 District at premises 1400 Constitution Avenue, N.E. (Square 1055, Lot 45).

HEARING DATES: June 14, and September 13, 1995
DECISION DATE: September 13, 1995

ORDER

PROCEDURAL BACKGROUND

This application was initially advertised for a variance from the use provisions (Subsection 330.5) or, in the alternative, a special exception under Section 216 to establish a church office as a church program at the subject premises. However, during the public hearing on this case on June 14, 1995, the Board concluded that the proposed use may be classified as a temporary community service center under Section 334. Accordingly, this case was readvertised for special exception relief to establish a temporary community service center.

SITE AND AREA DESCRIPTION

The subject property is located on the northeast corner of the intersection of 14th Street and Constitution Avenue N.E. The site measures approximately 1,536 square feet in land area and is developed with a two-story rowhouse designed to be used as a flat. Both the first and the second floors are constructed as two-bedroom apartment units. The applicant and owner, Brown Memorial A.M.E. Church, is presently using the first floor apartment unit for an office. The apartment unit on the second floor is presently vacant and is being offered for rent as a residence.

The character of the area surrounding the site is primarily residential, developed with rowhouses interspersed with low-rise apartments, churches and schools. The Brown Memorial A.M.E. Church is located diagonally across the street at the southwest corner of the intersection of 14th Street and Constitution Avenue N.E.

ISSUES AND ARGUMENTS

1. Whether the applicant meets the provisions of Sections 334 and 3108.1 of the Zoning Regulations?

Subsection 334.1 of the Zoning Regulations authorizes the Board to approve temporary community service centers in R-4 districts as special exceptions. These centers are to "accommodate organizations created for the purpose of improving the social or economic well being of the residents of the neighborhood in which it is proposed to be located..."

The applicant, Brown Memorial Church, states that the first floor of 1400 Constitution Avenue, N.E., is presently being used by the members of the church and community for the following programs:

1. Community Food Program
2. Community Outreach Program
3. Youth Basketball Program
4. Girl Scout Council Program

The applicant stated that the community will benefit from the development of the youth into leaders in society. The programs will remove the youth from criminal activity that may be in their community and reduce crime within the community as well.

Subsection 334.2 provides that a temporary community service center shall be located so that it is not likely to become objectionable to neighboring properties because of noise or other objectionable conditions, and Subsection 3108.1 states that the requested relief shall not tend affect adversely the use of neighboring property.

The applicant stated that the activities that may occur at the site include, but are not limited to the following:

- 1) receiving supplies and other items related to the programs;
- 2) preparing and printing programs and newsletters;
- 3) preparing and arranging travel for the participants; and
- 4) preparing for the community service programs to operate.

The applicant stated that the premises will be open for these programs for five to six days per week, except during the summer months. While the programs will not physically be located at the site for the six days, the secretary will be available to take telephone calls.

The programs operate about 20 hours per week in the Greater Washington Metro area, however at the site, the programs will operate about ten hours per week.

The applicant stated that there will be 20 volunteers on staff; four each for the community outreach program, basketball program and food program and eight for the Girl Scout program. The volunteers will come from the church and community.

The applicant stated that use of the site as a office for the community services will not adversely affect the present character or future development of the surrounding area. The use as an community service center on the first floor will not create any deleterious external effects. This community center will not have any effect on the present zoning of the second floor residential unit.

The Office of Planning filed a report dated June 6, 1995 recommending denial of the application as it was originally filed. A supplemental report was filed by OP in response to the amended application. In the supplemental report. OP stated that it was unable to make a recommendation due to the lack of detailed information about the applicant's proposal. However, OP stated that if at the time of the public hearing the applicant is able to establish that the proposed temporary community service center is designed to serve the social and economic well being of the neighborhood in which it is located and is reasonably necessary or convenient to the neighborhood, the Office of Planning would not object to the approval of this application for a period not to exceed three years.

ANC 6B submitted a letter dated June 13, 1995 in support of the application as originally advertised.

Area residents testified at the public hearing in opposition to the application. They expressed concerns in the following areas:

A. Serving the neighborhood. Opponents were unsure whether the people attending the programs would come from their neighborhood because so many members of the church are from other communities outside of the neighborhood and the city. They also believed that most of those running the programs will be from outside the neighborhood.

B. Maintaining the Residential Character. Opponents expressed a concern that the programs would bring people into the community who would loiter and eat food while walking around the streets. These people might lead to some of the social problems,

vandalism and crime. They noted that people living in this neighborhood are organizing to clean up the public areas and fix up the properties. They are concerned that the property values will be reduced if people in the programs loiter in the area, spread trash, and create traffic and parking congestion. One opponent was concerned that a residence is being used for a service center rather than a dwelling.

One resident testified that the derelict properties in the area are used for public drinking and illegal activity. She stated that the church has declined to assist the neighborhood in efforts to stop this even on church property. The church has been unwilling to post "no trespassing" signs to assist the police with making arrests.

One neighbor testified that the subject lot is unsecured and the landscaping is unkempt.

C. Future Plans of the Church. One neighbor was concerned that the church would get approved to operate the center temporarily without knowing that they will have a place to locate when the approval expires.

Responding to the issues raised by opposing neighbors, the church stated that the food program will not create problems with loitering and trash in the street because the prepared foods will not be served to people coming to the site to eat. The volunteers will get a list of people in need of food, the volunteers will take the food from the center to the people in need. The foods are canned and packaged items.

With regard to traffic and parking congestion, the applicant stated that while the programs will operate from the site, not many people will come to the site on a daily basis. For example, there are 40 members on the basketball team. They practice at Eastern High School and all 40 children do not come to the center at one time. The Girl Scouts meet at different locations, not just at the center. For the outreach program, the volunteers go to the school to find out what is needed. The children do not come to the center. The church stated that the children in the programs are from the community. They do not drive, therefore they do not create traffic congestion or parking problems. The four or so volunteers are the only ones likely to drive and they will not adversely impact traffic or parking. The programs are intended to serve the community. The traffic and parking conditions will not be like the conditions on Sundays for church service.

On the issue of the church's future plans, the pastor testified that while there is nothing definite about where the service center will be located in the future, the church is pursuing this application with the faith that a subsequent location will be found and approved.

Subsection 334.3 states that no structural changes shall be made except those required by other municipal laws or regulations.

The applicant stated that there will be no structural alterations to enlarge the nonconforming use. Neither interior or exterior changes have been or are expected to be made.

Subsection 334.4 states that the use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located. The applicant stated that the main recipients of the youth basketball program are all of the youth from the Washington, D. C. metropolitan area who are interested in developing their skills in basketball, education and leadership. This program is for 30 youths per year and is to have three age groups: 9 to 12, 13 to 15, and 16 to 18. The main recipients of the community outreach program are the students of Maury Elementary School. Maury School was adopted by the A.J. Mattison Men's Fellowship to receive material gifts, moral support, and help with goal setting. All District of Columbia public schools are eligible for assistance from this outreach program.

The main recipients of the Girl Scout program are 40 girls from the Washington D.C. metropolitan area. As a member of the Girl Scouts of the United States, the church accepts all girls who are willing to attend.

The applicant stated that the people to be helped by the programs generally come from the community.

Subsection 334.5 states that a temporary community service center shall not be organized for profit, and no part of its net income inures to the benefit of any private shareholder or individual.

The applicant stated that the church programs are not and will not be organized for profit, but are organized exclusively for the promotion of the social welfare of the community. The staff who operate the activities of the church are all volunteers except the pastor and secretary who are salaried personnel of the church.

Subsection 334.6 requires the Board to limit the use to a reasonable period of time not to exceed three years. However, the Board is allowed to renew authorization of the use.

Under Subsection 3108.1, the application shall not impair the intent purpose or integrity of the zone plan.

The applicant testified that the structure is zoned for residential purposes and the proposal to locate the community service center there is only temporary. The applicant will seek to continue the programs at another location, possibly next to the church. In any event, the applicant will seek approval as necessary. The current facility will be returned to full residential use.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The traffic congestion and parking problems are not attributable to the operation of the program.
2. The recipients of the services are generally from the neighborhood, not from the suburbs.
3. The food program is operated so that it is unlikely to contribute to loitering or the generation of trash.
4. The children participating in the programs are not involved in criminal activity or vandalism in the neighborhood.
5. The church needs to communicate with the area residents to address issues of concern to them.

CONCLUSIONS OF LAW AND OPINION:

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that granting the requested relief is in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not adversely affect the use of neighboring property in accordance with the Regulations and Maps. The Board further concludes that the application meets the provisions of 11 DCMR 334 regulating temporary community service centers in residential districts. It is therefore **ORDERED** that the application is **GRANTED** subject to the following **CONDITIONS**:

1. Approval shall be for a period of **TWO YEARS** from the final date of this order.

2. The outreach programs of the site shall be limited to the Girl Scouts, the youth basketball program, the community outreach program, and the food program.

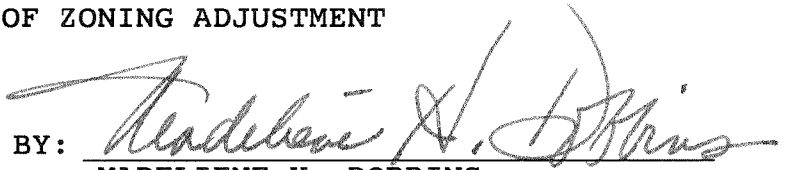
3. The applicant shall appoint a person to act as a liaison with the community to address issues of concern to them about the church.

4. No cooked food shall be distributed from the subject site.

VOTE: 4-0 (Angel F. Clarens, Laura M. Richards, Susan M. Hinton, and Craig Ellis to grant).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER:

JUN 30 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 2667 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3193,1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16048

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 30 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

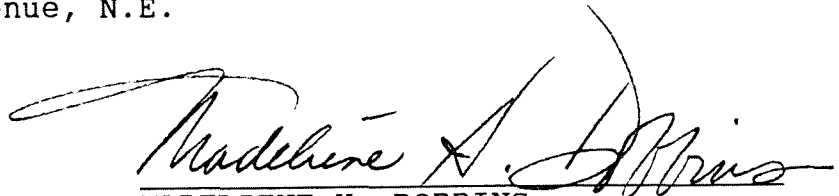
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MADELIENE H. DOBBINS
Director

Date: JUN 30 1997